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August 25, 2003

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W., TW-A325
Washington, DC 20554

**NOTICE OF EX PARTE
COMMUNICATION**

**Re: Implementation of the Pay Telephone Reclassification and Compensation
 Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128**

Dear Ms. Dortch.

Enclosed please find a copy of an ex parte communication to Gregory M. Cooke, Deputy Division Chief – Competition Policy Division in the above-referenced proceeding to be filed with the Commission and placed in the record of the proceeding.

If you have any questions regarding this filing, please contact the undersigned.

Sincerely,



Albert H. Kramer

Enclosures

cc Jeff Carlisle
 Darryl Cooper
 Henry L. Thaggert, III
 Jack Yachbes
 Robert Tanner

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Gregory M. Cooke
Deputy Division Chief – Competition Policy Division
Federal Communications Commission
445 12th Street, S.W.
Room 6-A420
Washington, DC 20554

**NOTICE OF EX PARTE
COMMUNICATION**

**Re: Implementation of the Pay Telephone Reclassification and Compensation
 Provisions of the Telecommunications Act of 1996, CC Docket No. 96-128**

Dear Mr. Cooke:

At our last meeting, we discussed the dial-around payment process. I agreed to submit an updated diagram showing the flow of the payment process with a narrative describing the process. Enclosed is the diagram and narrative that we discussed. I am sorry for the delay in getting this to you.

Please do not hesitate to give me a call at (202) 828-2226 if you have any questions.

Sincerely,



Albert H. Kramer

Enclosures

cc: Jeff Carlisle
 Darryle Cooper
 Henry L. Thaggert, III
 Jack Yachbes
 Robert Tanner

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Narrative to Accompany “Schematic of DAC Payment Process”

This narrative explains the “Schematic of DAC Payment Process.” This diagram is a highly simplified schematic of the billing process. It should be reviewed with the description of “Clearinghouses” (see “*Comments of the American Public Communications Council on Further Notice of Proposed Rulemaking*” at Section II, pp. 18-21, submitted in this proceeding on June 23, 2003 (“APCC Comments”)), and with Exhibit 2, Declaration of Ruth Jaeger at ¶¶ 3-7 (*Id.*).

Under the current system, each payphone service provider (PSP), be it independent PSP (IPSP) or local exchange carrier PSP (LECPSP), on a quarterly basis, sends each IXC a list of ANIs for which the PSP is entitled to collect dial-around compensation. In point of fact, the IPSPs generally use aggregators/clearinghouses that perform the collection function for them.¹ These aggregators (e.g. APCCS) are shown on the Schematic. The diagram illustrates, by the notation “(‘To Whom.’)” that accompanies the arrows indicating the flow of the PSP ANI lists, a major problem that existed prior to adoption of the *Second Order On Reconsideration*. There was, as APCC has demonstrated, no way for the PSPs to know, on any kind of timely basis – if at all – which carriers to bill because there was no way to know which carrier carried calls and/or is responsible for paying for calls originating from each payphone.

For this latter reason, prior to the *Second Order on Reconsideration* in this docket, the PSP ANI lists were sent by APCCS and other aggregators on a regular basis to about 1300 carriers; there was, and is, no way to know for sure what carriers were facilities

¹ The role of clearinghouses/aggregators in the dial-around compensation process is explained in the description of “Clearinghouses” in the APCC Comments.

based, what carriers were SBRs, and which were switchless carriers. The 1300 counts as only a single carrier each of at least two clearinghouses that act as payment agent for a handful (no more than 20) IXC's (albeit many major IXC's are covered by these clearinghouses). These two clearinghouses, Billing Concepts and the National Payphone Clearinghouse ("NPC"), are indicated on the diagram but not shown as part of the schematic payment process.² These clearinghouses perform only functions associated with compilation, payment and disbursement; as APCC is informed, they do not perform functions associated with actually determining which calls their IXC customers will pay for and have no role in the IXC's tracking process. The IXC's decide which calls to pay for and how and whether to track calls from payphones.

The IXC's also receive ANI lists from the LECs. The LEC ANI lists show the ANIs that the LEC transmitting the list had in service on payphone lines as of the last day of the quarter. Presumably, the LECs send these lists to only the IXC's who request them. APCC does not have information indicating LEC practices in this area: whether each LEC waits for a request from an IXC before sending the list, whether the LECs each compile their own lists and send the LEC ANI list to all IXC's the LEC has located, whether the LECs have uniform practices, etc.

Prior to the *Second Order on Reconsideration*, except for sending the LEC ANI lists to requesting carriers, the LECs faced the flip side of the dilemma faced by PSPs: just as PSPs would not know which carriers carried calls or which is responsible for payment for calls or if a particular call originated from the PSPs' payphones, the LECs did not necessarily know to which carriers to send the ANI lists; thus the "To Whom?" indication

² See note 1, supra

on the diagram showing the flow of ANI lists from the LECs to the carriers (and their clearinghouses).³

In any event, once the IXC has the PSP ANI list and the LEC ANI lists, the two can be matched. Only if there is a match will calls from an ANI be paid for.⁴ Once there is a "matched ANI," an IXC can check that ANI against the IXCs' call billing records by screening completed calls originated from payphones and matching the call records with the appropriate ANI.⁵ Presumably, these call records have been marked so they can be screened for payphone calls based on the ANI II digits or the IXC has another means of comparing matched ANIs against call records to identify calls for which the IXC owes dial-

³ This anomaly, that the LECs did not even know which carriers to whom to send the LEC ANI list, apparently results from the fact that the billing scheme was developed from the scheme that existed prior to the 1996 Act. See *Policies and Rules Concerning Operator Services Access and Pay Telephone Compensation, Second Report and Order*, CC Dkt. No. 91-35, 7 FCC Rcd 3251, ¶¶ 51-53 (1992). Under that scheme, payment was on a per phone per month basis, and the Commission actually designated the carriers and the amount each carrier was responsible for paying for each payphone to each PSP. (The carriers who paid were the carriers with revenue above a certain threshold. The Commission periodically issued a public notice designating which carriers had to pay and the amount to be paid by each.) In that context, it made sense for the Commission to hold the LECs responsible for sending the LEC ANI lists to carriers since the number of carriers who required the lists was small and readily ascertainable. The requirement is equally sensible under the current rule adopted in the *Second Order on Reconsideration*, since only a small number of generally ascertainable first facilities based carriers is responsible for payment. But if the Commission returns to a regime where SBRs are responsible for payment, to PSPs directly, there may once again be confusion about to which carriers the LECs must send the LEC ANI lists

⁴ The IXCs have generally insisted on "exact" matches between an ANI shown on a PSP ANI list and the same ANI on the LEC list. Some IXCs do perform some "manual" functions to eliminate minor discrepancies in ANI matches, but ANI mismatches between the exact names, addresses, etc., on the LEC lists and the PSP ANI lists, or changed NPAs, etc., consistently account for between 10% and 15% of all ANIs submitted, resulting in further underpayment.

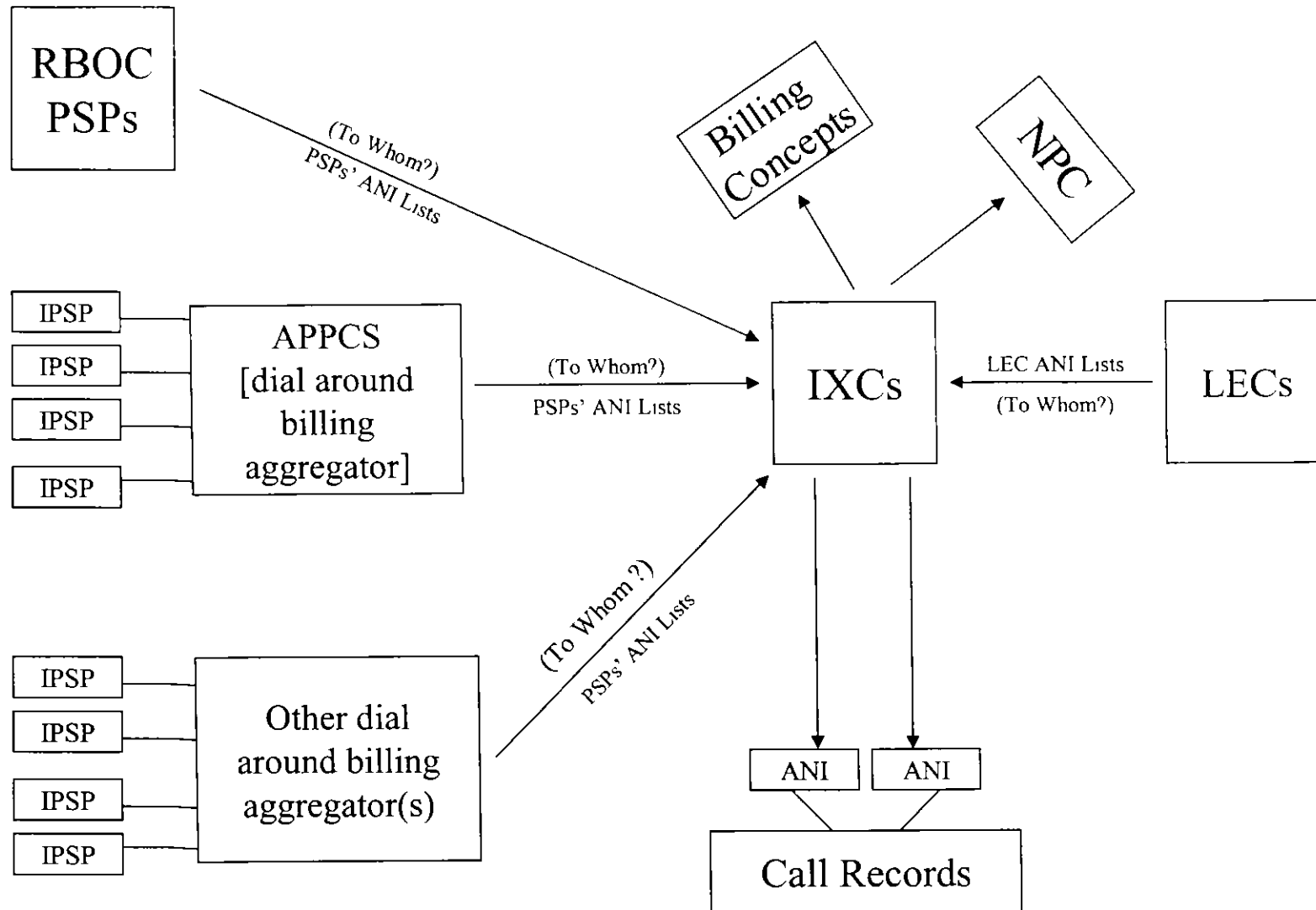
⁵ The description in the text is conceptual rather than necessarily describing the sequence in which various steps occur, or the actual steps that a particular IXC performs. For example, some IXCs may screen their call records first and then match LEC and PSP ANI lists.

around compensation.⁶ Presumably, once ANIs and call records have been appropriately matched, the IXC will render payment.

It is to be reiterated that this is a conceptual model of the way the system is supposed to work. While some problems have been briefly described, their scope has been only generally indicated. The disruption the problems have actually caused has not even been hinted at here. Further, additional problems exist which are too numerous to detail for purposes of this discussion.

⁶ For example, some smaller IXCs may actually compare the ANI on each of the IXC's call records against the matched ANI list.

Schematic of DAC Payment Process



PSP gets no record of call by call compensation
4-6 month payment delay

ANI II Tracking
(27, 29, 70 (or 07) or all records)